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C O N F I D E N T I A L SECTION 01 OF 03 MOSUL 000037

SIPDIS

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JUSTICE FOR: CARL ALEXANDRE AND KATHLEEN OCONNOR

E.O. 12958: DECL: 3/30/2016

TAGS: [PREL](#) [PINS](#) [PINT](#) [PGOV](#) [PHUM](#) [IZ](#) [MARR](#) [KCRM](#)

SUBJECT: NINEWA RULE OF LAW ISSUES PART I: NINEWA CRIMINAL JUSTICE
COMMITTEE OFF TO POSIT

REF: A) MOSUL 17; B) MOSUL 16

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CLASSIFIED BY: Cameron Munter, PRT Leader, Provincial
Reconstruction Team Ninewa, State.
REASON: 1.4 (a), (b), (d)

SUMMARY

¶1. (C) In recent months we have heard criticism of the Iraqi criminal justice system in Ninewa. Even officers at the Provincial Joint Coordination Center (PJCC) say they are "tired" of seeing terrorists released by "cowardly judges" or "corrupt" military and police officials. Corruption and cowardice aside, problems now tend to be centered on poor communication and coordination among the Iraqi judiciary and the security forces. The impetus for the Ninewa Criminal Justice Committee (NCJC) is to serve as an effort to acknowledge these problems and work towards solutions collectively to improve the criminal justice system in the province. The first meeting, held in late March, exceeded expectations by both the parties involved as well as PRT and MNF-N officials observing. End Summary.

¶2. (SBU) PRT Rule of Law Coordinator and PolOff met with Provincial Chief of Police (PCOP) BG Wathiq Al Qudir, Ninewa Chief Judge Faisal Sadeeq Hadeed, Investigative Judge Amer Rasheed Hammedi and Iraqi Army (IA) 2nd Division Commander MG Jamaal, and MNF-N at One West Iraqi Police (IP) headquarters in Mosul on March 25.

DIAGNOSIS OF A PROBLEM: PUBLIC PERCEPTIONS

¶3. (C) The public is frustrated with the effectiveness of the criminal justice system in Ninewa. During a conversation with two colonels from the Provincial Joint Coordination Center (PJCC) on March 24, Col Ismael Hussein Khader told PolOff he and his colleagues at the PJCC had been working hard over the past three years -- at risk to their own personal safety -- to make Iraq safer. However, he claimed, they felt their work was negated when "well-known terrorists" were released from prison.

He and Col Khaled Suleiyman believed these events damaged the public's faith in government institutions. Khader believed there had to be some sort of collusion between terrorists and judges, and members of the Iraqi Security Forces (ISF). Even Coalition Forces (CF) were complicit since they were not doing enough to keep the bad guys behind bars, he said. "The terrorists have the streets," he exclaimed. He and Suleiyman asked for USG assistance to rid local government and security forces of corruption and help restore the public's faith in the government. "We think America could do something to leave a good impression," they said.

ACKNOWLEDGEMENT OF THE PROBLEM

¶4. (C) Over several meetings with IA, IP, and judicial officials similar complaints arose: there was little or no communication, and a great deal of distrust, among institutions. Chief of Police Al Qudir told PRT officials on several occasions he recognized the need to increase the public's trust of the police. Since there had been corrupt officers in the past, he admitted, it caused a large rift with constituents. Such problems were complicating the force's ability to improve since they were not receiving information tips, for example, from concerned citizens about terrorist activities in their neighborhoods. More importantly, was that the public thought the IP was complicit with the release of terrorists from prison. This made him angry and fostered his own distrust of Ninewa's judges with prosecuting cases (ref a). Chief Judge Hadeed and Investigative Judge Hammedi saw the problem from another angle. While the IP and IA commanders could "go public" and "blame" the judiciary for releasing terrorists (ref b), judges were forbidden to defend themselves in the press. Even more frustrating, according to Hadeed, was that the "truth" was not getting out: although some judges were corrupt, most were working hard to hear terrorist cases with missing evidence, crimes scenes not protected, and ISF investigators not allowed to testify by their commanders. "The system cannot continue

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that way it's going," said Hadeed. "We have to do something to figure this out with the army and police." Here was where the PRT's Rule of Law unit stepped in.

THE RESULT: NINEWA CRIMINAL JUSTICE COMMITTEE

¶5. (C) The first meeting of the Ninewa Criminal Justice Committee served as a chance for the PCOP, IA, and judiciary to begin honest dialogue and work on issues to improve coordination on criminal investigations and evidence collection. Chief Judge Hadeed began the meeting by spelling out the local judiciary's frustration with IP and IA investigative information. He chalked up the problem to poor communication and a lack of education by ISF investigators on criminal case reporting procedures. "There was no contact" with ISF on cases and therefore they could not be tried. With Ministry of Interior commandos, for example, the judiciary had "very little contact." ISF was acting like they were above the law, he said. Even CF was guilty since they did not know Iraqi law, claimed Hadeed. One of the biggest problems was when ISF were transferring suspects to CF custody. "Judges should be involved and given all documents," he said. Admitting the judiciary was also to blame Hadeed said some judges were "being lazy," for not quickly moving through cases. But most upsetting, said Hadeed, was when the IA would not allow their agents to testify.

¶6. (C) Chief of Police Al Qudir said the IP was upset as well. There were cases where they caught insurgents "red-handed" in the act of committing a crime, but that the case was later thrown out because the IP did not follow procedures. He said this problem was more pronounced with CF, but that the IP was cooperating better with CF, and CF was now waiting until the IP finished their investigation before taking custody of the

suspect. Al Qudir also claimed that witnesses and informants were sometimes difficult to track down.

17. (C) Iraq Army (IA) 2nd Division MG Jamaal began by launching into his frustrations with the judiciary. He claimed that if there was no law then only chaos would exist, and as a result all sides would have to work together. He believed terrorists were benefiting since judges were not standing firm against them. He blamed lawyers for exploiting the system for personal gain. More importantly, however, Jamaal expressed his strong commitment to uphold the law, claiming he was doing everything he could to enforce it. Jamaal did not understand why his investigators' testimony was needed if the IA caught terrorists in the act of committing a crime or having given a documented confession. His conclusion was that it was the fault of the court system that terrorists were released.

SOLUTION: BETTER COMMUNICATION AND COORDINATION

18. (C) Jamaal's solution? Judges had to be firmer and not allow lawyers to push them around. He said the work of the IA was becoming increasingly more difficult because most terrorists knew they would only have to stay in prison for three to four months before being released. He accused judges of buying off on terrorists that pleaded they were coerced into confessing under duress. Using a battlefield analogy, Hadeed reminded Gen Jamaal that there were two types of leaders: those on the battlefield, and those planning the war from behind a desk. Comparing himself to the desk officer, Hadeed claimed the law did not allow him much flexibility. Like Jamaal, too, he was a soldier who was limited by the rules of engagement. Accusations that the judges were folding under pressure from terrorists had been mitigated, he said. They now conducted terrorist investigations with panels so that any decisions would not single out a particular judge. He said that if a panel had received a threat the case would not be prosecuted locally, but shifted to the Higher Juridical Council in Baghdad. Such precautionary measures did not allow judges to "fool around" with case procedures, he said. Furthermore, if judges refused to hear cases it would only reflect poorly on Hadeed, which could also cost him his job.

19. (C) Admitting their forces had committed procedural errors, Generals Jamaal and Al Qudir extended an olive branch to Hadeed. Crime scenes had to be protected, they agreed, and evidence not compromised (ref b). The judges had to see the IA

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investigators, Hadeed requested, since the case would have to otherwise be thrown out. The ISF could not keep moving detainees to different courthouses, such as Dohuk, that were outside of Ninewa's jurisdiction and could not adequately hear the cases, he said. Al Qudir said the IP would work better with IA investigative experts to protect crime scenes and better collect evidence. Moving one step further, Jamaal recommended the ISF form a committee for IA agents to meet and work with the judges. There should be cooperation between investigative judges and the IA investigators, he said. Investigative Judge Hammedi agreed and said more would need to be done to train ISF investigators on interrogation and investigation procedures.

COMMENT

110. (C) Building the capacity of the criminal justice system to identify, investigate, and successfully prosecute dangerous criminals is key to bringing the security situation under control. As the capacity of the ISF to perform their security function increases, building their capacity to perform their investigative function to assist the courts is of equal importance. Because the courts in Iraq ultimately control the investigative process and also act as the prosecuting authority, cooperation and coordination with the ISF is critical. As is

clear today, an ISF raid that captures an insurgent cell leader, for example, is only truly successful if the suspect can be taken off the streets and incarcerated consistent with Iraqi law. The NCJC is a small but important step in efforts to make such successes the rule rather than the exception. In addition, [consistent with the PRT mandate] the NCJC places the responsibility for strengthening the relationship between the ISF and courts in the hands of the Iraqis themselves. However, due to the distrust and finger pointing of the past, the committee will likely continue to require U.S. facilitation in the near term. In time, the goal is that the police, army, and courts will see the value in working together to secure the province under the rule of law and will continue to do so after U.S. facilitation ceases.

MUNTER